

1 DANIEL G. BOGDEN  
2 United States Attorney  
3 PHILLIP N. SMITH, JR.  
4 Assistant United States Attorney  
5 Nevada Bar Number 10233  
6 501 Las Vegas Blvd. South, Suite 1100  
7 Las Vegas, Nevada 89101  
PHONE: (702) 388-6336  
FAX: (702) 388-6418  
phillip.smith@usdoj.gov

Attorney for the Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

11 UNITED STATES OF AMERICA, ) 2:14-cr-232-GMN-NJK  
12 )  
13 Plaintiff, )  
14 )  
15 v. )  
16 )  
17 FREDERICK JOHN RIZZOLO, )  
18 )  
Defendant. )  
-----)

**STIPULATION FOR EXTENSION OF TIME**

19 IT IS HEREBY STIPULATED AND AGREED, by and between Daniel G. Bogden,  
20 United States Attorney, and Phillip N. Smith, Jr., Assistant United States Attorney, counsel for  
21 the United States of America, and Richard E. Tanasi, Esq. and Sigal Chattah, Esq., counsel for  
22 Defendant FREDERICK JOHN RIZZOLO, that the date for the Government to file a response to  
23 the Defendant's Motion to Dismiss (Docket #45) be extended for forty-five (45) days.

24 This stipulation is entered for the following reasons:

- 25 1. The Defendant's Motion was filed and served on December 1, 2015. Pursuant to  
26 a stipulation between the parties, the Government's response deadline is August 5, 2016.  
27 2. Since the filing of the previous stipulation, the parties engaged in another  
28 conference to discuss further outstanding issues and to make a further attempt at negotiating this

1 case. If the parties are successfully able to negotiate the case, it would obviate the need for the  
2 Government to file a response. As recently as July 21, and August 1, 2016, the parties  
3 exchanged communications which contained counter-offers in a further attempt to resolve this  
4 case.

5       3.     The parties are requesting additional time to continue good faith negotiations.  
6 The trial in this matter is set for November 14, 2016. Should negotiations fail, the parties will  
7 most likely stipulate to request this Honorable Court to continue the trial, given the time and  
8 good faith efforts the parties have focused on negotiations.

9       4.     Co-counsel for the Government, AUSA Sarah Griswold, is on detail to “Main  
10 Justice” in Washington, D.C. As the Court is no doubt aware, this matter is a somewhat  
11 complicated tax case that originates out of a previous tax case with a long history. The instant  
12 case has increased staffing requirements. Consequently, the Government recently sought the  
13 assistance of an attorney from the Tax Division of “Main Justice.” Pending before the Court is a  
14 motion for Trial Attorney Rebecca J. Sable to be allowed to join the case on behalf of the United  
15 States. *See* Docket #72. The Court has yet to rule on the motion.

16       5.     Undersigned counsel for the Government has been on annual leave since July 25,  
17 2016, and will be returning to full duty on August 8, 2016.

18       6.     The Defendant is not incarcerated, and he does not object to the continuance of  
19 the Government’s response deadline.

20       7.     The additional time requested herein is not sought for purposes of delay, but  
21 merely to allow the parties to have adequate time to attempt to negotiate the case, and to properly  
22 respond to the Defendant’s Motion if the parties are not able to reach a resolution.

23       8.     Additionally, denial of this request for continuance could result in a miscarriage  
24 of justice.

25 . . .

26 . . .

27 . . .

28 . . .

1           9. This is the eighth stipulation filed herein to continue the Government's response  
2 deadline.

3           DATED: August 5, 2016.

4

5           \_\_\_\_\_  
6 PHILLIP N. SMITH, JR.  
7 Assistant United States Attorney  
8 Counsel for the United States

9

10         \_\_\_\_\_  
11 RICHARD E. TANASI, ESQ.  
12 SIGAL CHATTAH, ESQ.  
13 Counsel for Defendant FREDERICK RIZZOLO

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

6 UNITED STATES OF AMERICA, ) 2:14-cr-232-GMN-NJK  
7 Plaintiff, )  
8 )  
9 v. )  
10 FREDERICK JOHN RIZZOLO, )  
11 Defendant. )  
12 \_\_\_\_\_)

## **FINDINGS OF FACT**

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. The Defendant's Motion was filed and served on December 1, 2015. Pursuant to a stipulation between the parties, the Government's response deadline is August 5, 2016.

2. Since the filing of the previous stipulation, the parties engaged in another conference to discuss further outstanding issues and to make a further attempt at negotiating this case. If the parties are successfully able to negotiate the case, it would obviate the need for the Government to file a response. As recently as July 21 and August 1, 2016, the parties exchanged communications which contained counteroffers in a further attempt to resolve this case.

3. The parties are requesting additional time to continue good faith negotiations. The trial in this matter is set for November 14, 2016. Should negotiations fail, the parties will most likely stipulate to request this Honorable Court to continue the trial, given the time and good faith efforts the parties have focused on negotiations.

4. Co-counsel for the Government, AUSA Sarah Griswold, is on detail to "Main Justice" in Washington, D.C. As the Court is no doubt aware, this matter is a somewhat

complicated tax case that originates out of a previous tax case with a long history. The instant case has increased staffing requirements. Consequently, the Government recently sought the assistance of an attorney from the Tax Division of “Main Justice.” Pending before the Court is a motion for Trial Attorney Rebecca J. Sable to be allowed to join the case on behalf of the United States. *See* Docket #72. The Court has yet to rule on the motion.

5. Undersigned counsel for the Government has been on annual leave since July 25, 2016, and will be returning to full duty on August 8, 2016.

6. The Defendant is not incarcerated, and he does not object to the continuance of the Government's response deadline.

7. The additional time requested herein is not sought for purposes of delay, but merely to allow the parties to have adequate time to attempt to negotiate the case, and to properly respond to the Defendant's Motion if the parties are not able to reach a resolution.

8. Additionally, denial of this request for continuance could result in a miscarriage of justice.

9. This is the eighth stipulation filed herein to continue the Government's response deadline.

For all of the above-stated reasons, the ends of justice would best be served by a continuance of the motion response deadline.

## **CONCLUSIONS OF LAW**

The additional time requested herein is not sought for purposes of delay, but merely to allow the parties sufficient time to allow the parties to attempt to negotiate this case, or for the Government to respond to the Defendant's Motion if the parties are unable to resolve the case, taking into account due diligence. The failure to grant said continuance would likely result in a miscarriage of justice.

3

1

1

1

## **ORDER**

IT IS THEREFORE ORDERED, that the previously-scheduled response deadline for the Government to respond to the Defendant's Motion to Dismiss (Docket #45) is extended until September 22, 2016.

**UNITED STATES MAGISTRATE JUDGE**